IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

WP(C).No. 23481 of 2006(U)

PETITIONER:

M/S. RELIANCE INFOCOM LTD.,
A & P ARCADE, S.A.ROAD, KADAVANTHARA,
REPRESENTED BY ITS CIRCLE MANAGER (LEGAL)
AND AUTHORISED SIGNATORY V.K.SAJITH.

BY ADV. SRI.V.G.ARUN

RESPONDENTS:

1.THE OMBUDSMAN FOR LOCAL SELF
GOVERNMENT INSTITUTIONS, TRIVANDRUM,
REPRESENTED BY ITS SECRETARY.

2.THE SECRETARY,
MUKKOM GRAMA PANCHAYATH,
MUKKOM, KOZHIKODE.

3.STATE OF KERALA, REPRESENTED BY
THE SECRETARY, LOCAL SELF GOVERNMENT INSTITUTION,
SECRETARIAT, TRIVANDRUM.

4.V.DAMODARAN,
VELLARAMKUNNU VEEDU, MUKKOM P.O., KOZHIKODE.

R2 BY ADV. SRI.P.J.MATHEW
R3 BY GOVT. PLEADER SMT.T.B.RAMANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C)No. 23481 of 2006

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Dated: 7th March, 2007

JUDGMENT

I.A.No.3553 of 2007 will stand allowed. Exts.P8 and P9 will be placed on record.

2. Ext.P8 is copy of the statement filed by the Atomic Energy Regulatory Board before the Bombay High Court. This statement is to the effect that the Radio Frequency Waves used for mobile phones are not covered under the definition of 'radiation' as given in the Atomic Energy Act, 1962 and that the Regulatory Board is not the appropriate authority to assess or to indicate the harmful effects or otherwise of the use of the radio frequency waves used for mobile phones. Ext.P9 is copy of the report of the World Health Organisation. Ext.P9 contains a finding that there is no convincing evidence regarding adverse health from radio frequency signals emanated by base stations and wireless networks.

3. Heard Mr.V.G.Arun, learned counsel for the petitioner and Mr.P.J.Mathew, learned counsel for the 2nd respondent-Panchayat.

4. My attention was drawn by Mr.Arun to Exts.P9, P8, P5 and also to the judgment of the Division Bench of this court in **Reliance Infocom Limited v. Chemancherry Grama Panchayat & Others** (I.L.R. 2006(4) Kerala 357). Counsel also drew my attention to

Section 271 F(c) of the Panchayat Raj Act and submits that the complaint upon which Ext.P4 order has now been passed by the learned Ombudsman was not maintainable before the Ombudsman at all and was beyound the jurisdiction of the Ombudsman.

5. I find force in the submission of Mr.Arun. Accordingly, the Writ Petition will stand allowed. Ext.P4 is quashed and the 2nd respondent-Panchayat is directed to take an early decision on the application submitted by the petitioner for permission to install the mobile tower uninfluenced by anything stated in Exts.P3 and P4 and taking into account the observations made hereinabove.

srd **PIUS C.KURIAKOSE, JUDGE**